

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Applicants respectfully thank the Examiner for the indication that claim 3 contains allowable subject matter. Thus, new claim 11 has been added which merges the features of original claim 1 and allowable claim 3.

In the Official Action, the Examiner rejects claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,146,396 to Konya, et al., (hereinafter “Konya”). Furthermore, the Examiner rejects claims 4, 5, 7 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Konya. Lastly, the Examiner rejects claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Konya in view of EP Patent No. 611582 A2 to Wilcox, et al., (hereinafter “Wilcox”).

In response, independent claim 1 has been amended to clarify its distinguishing features. Specifically, independent claim 1 has been amended to clarify:

“a guide wire insertion hole formed through the tip member and extending from a front opening provided on a front surface of the tip member to a side opening provided on an outer periphery of the tip member, wherein an axis of the side opening has an angle formed in a direction away from the axis of the basket.”

The amendment to claim 1 is fully supported in the original specification. Thus, no new matter has been entered into the original disclosure by way of the present amendment to claim 1.

Applicants respectfully submit that a difference between the basket forceps recited in claim 1 and that which is disclosed by Konya is the relationship between the

direction of the guide wire insertion hole and the direction of the axis of the basket. Claim 1 has been amended as discussed above to clarify this distinction.

Turning now to the prior art, Konya discloses a chip that is a tubular member. A guide wire derived from a catheter is passed inside the tubular member and extends out from a tip. One end (distal end) of a basket wire is fixed inside an opening on the proximal side of the chip. The other end (proximal end) of the guide wire is provided on an operation unit side (user's side) via the catheter.

The opening on the distal end side of the catheter faces the opening (on the proximal end side) of the chip. That is, in Konya the axis of the catheter and the axis of the hole provided on the chip are coaxial or parallel.

Due to the above structure, in Konya, the guide wire extending from the catheter to the chip is passed through the center (axis) of the basket. Thus, in the structure of Konya, the guide wire gets in the way when storing an object inside the basket. Such is a common disadvantage associated with prior art basket forceps.

In the basket forceps disclosed in the present application, the tip member and the sheath are arranged on approximately the same straight line in the same way as in Konya. The wire bundling portion 66a (refer to Fig. 8A, 8B and 9) which bundles the basket wires is fixed to the proximal end side of the tip member.

However, the side opening (of the guide wire insertion hole) of the basket forceps of claim 1 is provided in a direction different from the direction in which the bundling portion is disposed ("away from the axis of the basket"). That is, the axis of the side opening is inclined away from the center of the basket formed of a plurality of wires.

Thus, when the chip member of the basket forceps of claim 1 is passed through the guide wire, the guide wire does not cross with the axis of the basket at least on the chip member side.

Due to the recited structure in claim 1, it is possible to prevent the guide wire from passing through the center of the basket, and getting in the way when housing an object in the basket. Therefore, the basket forceps recited in claim 1 claimed patentably distinguishes over Konya at least in the relationship between the direction of the guide wire insertion hole and the direction of the axis of the basket and also in the effect and advantage resulting therefrom.

With regard to the rejection of claims 1 and 2 under 35 U.S.C. § 102(b), a basket forceps having the features discussed above and as recited in independent claim 1, is nowhere disclosed in Konya. Since it has been decided that “anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,”¹ independent claim 1 is not anticipated by Konya. Accordingly, independent claim 1 patentably distinguishes over Konya and is allowable. Claim 2 being dependent upon claim 1 is thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1 and 2 under 35 U.S.C. § 102(b).

With regard to the rejections of claims 4-8 under 35 U.S.C. § 103(a), since independent claim 1 patentably distinguishes over the prior art and is allowable, claims 4-8 are at least allowable therewith at least because they depend from an allowable base claim.

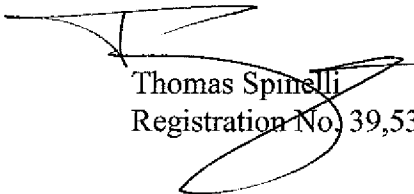
¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

Consequently, the Examiner is respectfully requested to withdraw the rejections of claims 4-8 under 35 U.S.C. § 103(a).

Furthermore, new claims 9 and 10 have been added to further define the patentable invention. New claims 9 and 10 are fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the addition of new claims 9 and 10. Applicants respectfully submit that new claim 9 is at least allowable as depending upon an allowable base claim (6). Applicants further submit that new independent claim 10 patentably distinguishes over the prior art and is allowable.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No. 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343
TS:cm